

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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LINDA EVANGELISTA, : Civil Action No. 1:21-cv-7889  
:   
Plaintiff, :   
:   
-against- :   
:   
ZELTIQ AESTHETICS, INC., :   
:   
Defendant. :   
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**STIPULATED ORDER REGARDING THE  
PRODUCTION OF DOCUMENTS**

The above-referenced Plaintiff and Defendant Zeltiq Aesthetics, Inc., collectively "the Stipulating Parties," hereby stipulate and agree through their respective attorneys of record as follows that all documents produced by the parties in this matter shall be produced in accordance with the following protocol:

1. Documents originating from hard copy sources (“Hard Copy Documents”) and attachments may be produced in (a) their original hard copy form or (b) searchable portable document format (“PDF”) or (c) Group IV TIFF format (black and white, 300 dpi) with corresponding searchable OCR text, along with the below-listed metadata fields when available, to be provided in a standardized load file compatible with Concordance, Summation, and Relativity with a Bates number field included on the load file so that text and metadata can be matched with TIFF images.

- a. Beginning Document Bates Number
- b. Ending Document Bates Number
- c. Attachment Beginning Bates Number

- d. Attachment Ending Bates Number
- e. Custodian or Source
- f. Confidentiality (Y/N)
- g. Page Count

Pursuant to the agreed-upon Stipulation and Order Regarding Confidential Information, the parties may redact information that is privileged or protected from discovery as work product or by reason of any other applicable privilege or immunity, and information subject to non-disclosure obligations imposed by governmental authorities, law or regulation (e.g. protected personal information). Redacted documents may be produced in either PDF or TIFF format with corresponding searchable OCR text and the associated metadata for the document, ensuring the redacted content is fully protected from disclosure.

2. Documents originating from electronically stored information (“ESI”), except those documents as noted in Paragraphs 3 and 4, may be produced in either PDF or TIFF format with extracted text, along with the below-listed metadata fields when available, to be provided in a standardized load file compatible with Concordance, Summation, and Relativity, with a Bates number field included on the load file so that text and metadata can be matched with TIFF images.

- a. Beginning Document Bates Number
- b. Ending Document Bates Number
- c. Attachment Beginning Bates Number
- d. Attachment Ending Bates Number
- e. Custodian or Source
- f. Confidentiality (Y/N)

- g. Document Date (the document's "date last modified" prior to collection, for email this will be the sent date)
- h. File Name
- i. File Extension
- j. From
- k. To
- l. CC
- m. Email Subject
- n. MD5 Hash
- o. Native Path (for documents produced in native format)
- p. Text Path

Upon request by the Receiving Party, the Producing Party shall produce the native formats of individual documents when available unless the Producing Party objects. If the Producing Party objects to the request, the parties shall meet and confer to discuss the objections. Pursuant to the agreed-upon Stipulation and Order Regarding Confidential Information, the parties may redact information that is privileged or protected from discovery as work product or by reason of any other applicable privilege or immunity, and information subject to non-disclosure obligations imposed by governmental authorities, law or regulation (e.g., protected personal information). Redacted documents may be produced in either PDF or TIFF format with corresponding searchable OCR text and the associated metadata for the document, ensuring the redacted content is fully protected from disclosure.

3. Microsoft Excel spreadsheets will be produced as native files. Excel spreadsheets requiring redactions will either be produced in native format or in PDF or TIFF format with

corresponding searchable OCR text and the associated metadata for the document, ensuring the redacted content is fully protected from disclosure. The file name for Excels or spreadsheets produced in native format will consist of a Bates number and a confidentiality designation if applicable, and a corresponding placeholder either PDF or TIFF image will also be provided stating “Document Produced In Native Format” bearing the Bates number and confidentiality designation of the natively produced document.

4. For documents and ESI that do not convert well to either PDF or TIFF (e.g., oversized drawings, picture files, audio and video files), the Producing Party will either produce the document in native format or will ask the Receiving Party to meet and confer regarding a reasonable alternative form of production. The file name for the documents produced in native format will consist of a Bates number and a confidentiality designation if applicable, and a corresponding placeholder either PDF or TIFF image will also be provided stating “Document Produced In Native Format” bearing the Bates number and confidentiality designation of the natively produced document.

5. Productions from databases and other structured sources will be made by generating reports that display the necessary data in a manner that can be easily viewed. The parties will meet and confer as needed to discuss specifics concerning productions of data from databases.

6. For data that is to be produced from personal electronic devices, including but not limited to iPhone, iPad, Android phone, Android tablet, etc., the parties will meet and confer to discuss the specific format of the production.

7. Document family relationships (the association between an attachment and its parent document) shall be preserved to the extent possible. Regarding produced attachments, a

Beginning Attachment and Ending Attachment Bates number will be provided for each attachment and included in the data load file.

8. Individual pages of PDF and TIFF documents and documents produced in native format shall be assigned a Bates number for ease of reference and to preserve the integrity of the documents and avoid modification of any documents or information. Bates numbers shall be unique across the entire document production and sequential within a given document. The parties will agree on a Bates numbering convention (e.g., ABCD 000000001).

9. The parties understand that this protocol contemplates the production of large volumes of documents, and they acknowledge that nothing in this Order waives, restricts or eliminates the parties' "claw-back" rights pursuant to the agreed-upon Stipulation and Order Regarding Confidential Information, or governing law, rules, orders, or agreements regarding inadvertently produced documents. Either Party reserves the right to apply to the Court at any time for a cost shifting order.

10. Consistent with Fed. R. Civ. P. 26(b)(2)(B), the parties will not produce ESI from sources that are not reasonably accessible because of undue burden or cost (e.g. disaster recovery data, unallocated/slack space data, ephemeral data, system/non-data files, corrupt files, and files that cannot be processed). The parties agree to meet and confer regarding the production of data from sources that may impose a significant cost or burden upon a Party (i.e., disaster recovery data).

11. The parties agree to produce documents as they are kept in the usual course of business and that it is not necessary to label documents to correspond to the categories in the requests for production.

12. The parties agree that documents produced according to this protocol are in a reasonably usable form.

13. The parties understand that this protocol contemplates the production of documents on a rolling basis.

14. This protocol does not govern the scope of production and nothing herein shall be construed to affect in any manner the materiality, relevance or admissibility of any document.

15. Documents that were previously collected, processed or produced in another litigation or in response to governmental or regulatory inquiries or investigations may be produced in the same format as they were collected, processed or produced in that particular litigation, inquiry, or investigation.

16. The parties shall meet and confer and endeavor to resolve any disputes arising hereunder before submitting such disputes to the Court for determination.

**STIPULATED AND AGREED TO BY COUNSEL OF RECORD.**

**IT IS SO ORDERED.**

**SIGNED AND ENTERED this 27 day of June, 2022.**



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**ONA T. WANG**  
**United States Magistrate Judge**